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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,984	10/16/2003	James O. Roberts	MSI-104USC1	8125
22801 7590 12/16/2008				
LEE & HAYES, PLLC				
601 W. RIVERSIDE AVENUE				
SUITE 1400				
SPOKANE, WA 99201				
EXAMINER				
BROWN, RUEBEN M				
ART UNIT		PAPER NUMBER		
2424				
MAIL DATE		DELIVERY MODE		
12/16/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/686,984

Applicant(s)

ROBERTS ET AL.

Examiner

REUBEN M. BROWN

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S5/DE)
Paper No(s)/Mail Date See Continuation Sheet
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

Continuation of Attachment(s) 3. Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :11/24/03; 1/29/04; 4/19/04; 6/7/04; 7/6/04; 4/10/06; 5/3/06; 12/26/07.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Bedard, (U.S. Pat # 5,801,747).

Considering claim 1, the claimed method for operating an EPG comprising the steps of;

'logging an amount of time that a particular channel is selected for viewing' is met by Bedard, Abstract; col. 3, lines 31-42; col. 4, lines 15-65.

Generating a query to identify channels based upon a percentage of time that the channels are selected', reads on the alternative display of viewed channels in Bedard, which teaches that channels may be viewed in an order based on the amount of time that each channel has been viewed, see col. 6, lines 12-47. Bedard teaches that the benefit of this arrangement is that it

ensures that a heavily viewed entry is not arbitrarily dismissed as being insignificant, col. 6, lines 42-46.

Considering claim 2, the claimed subject is also met by the disclosure of Bedard, of placing the entries 202 in an order based on their viewed time, which would inherently place the higher percentage channels in one place, and the lower percentage channels, in another place, see col. 6.

Considering claim 3, the claimed feature of, '*a threshold of time*', reads on Bedard, col. 3, lines 62-67 thru col. 4, lines 1-15.

Considering claims 4-6, Bedard operates using software, which requires '*a computer readable medium and executable with a processor to perform the steps*', see col. 3, lines 55-62. Furthermore Bedard (col. 3, lines 1-15) discloses that the viewer interface may be a CATV set-top unit, which inherently includes a processor.

Considering claim 7, the claimed steps of a method for operating an EPG corresponds with subject matter of claim 1, and is likewise analyzed. The additional feature of saving the query in '*a hierarchic query structure*', reads on discussion that the channels may be organized according to categories, see col. 3, lines 35-55 & col. 4, lines 48-65; col. 7, lines 39-64; Fig. 2.

Art Unit: 2623

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
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or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (9:00-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Reuben M. Brown/

Examiner, Art Unit 2424

